IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1970 OF 2004

Shri Ahmed Khan Abdulla Khan ...Petitioner.

V/s

Shri Abdul Gani Majidkhan
Nadabi and Ors. ...Respondents.

Mr. Satyajit S. Swad for the petitioner.
Mr. S.R. Shitole for the State.

CORAM: V.M.KANADE,J.
DATE: 21st March, 2005

P.C.:

1. Petitioner is challenging the order passed by the VIIth Additional Sessions Judge, Pune who allowed the Criminal Revision Application filed by the accused and the order of the Trial Court issuing the process was set aside and the complaint was dismissed.

2. Brief facts are that the Petitioner - complainant received a proposal of marriage for his daughter Gazala - Respondent No.2 with the son of the petitioner. It is the complainant's case that the engagement was fixed on 22/5/1999. Petitioner spent an amount of Rs 20,000/- for the engagement ceremony. The marriage was fixed on 3/10/1999. The invitation cards were printed and sent to relatives and friends.

Before the marriage ceremony take place, respondent No.2, daughter of respondent No.1, eloped with another person. Thereafter, a complaint was filed under sections 193, 420 and 500 read with section 34 of the Indian Penal Code. The Magistrate issued process against the accused. Thereafter, the accused preferred Revision Application in the Court of Additional Sessions Judge who allowed the Revision Application and dismissed the complaint.

3. The learned Counsel for the petitioner has submitted that the Revisional Court has erred in dismissing the complaint and interfering with the order of issuance of process. He submitted that the complainant has spent huge amount for the marriage of his son who was working at Baharin and had sent invitation cards to his friends and relatives. He has submitted that since the marriage did not take place as it was scheduled, he and his family were defamed by the conduct of the respondents 1 to 4. He has submitted that in the criminal proceedings filed by respondent No.1 against the person with whom his daughter had eloped, respondent No.1 did not support the prosecution case and, therefore, he had committed an offence under section 193.

4. I have perused the copy of the complaint as also a copy of the judgment passed by the Sessions Court. It is an admitted position that the respondent No.2 eloped with respondent No.3 before the marriage. It cannot be said that respondent No.1 was aware that respondent No.2 was going to elope with respondent No.3. There was thus no intention on the part of respondent No.1 in defaming the complainant or his son as the incident in question has taken place as a result of his daughter running away with respondent No.3. It has to be borne in mind that the marriage has to be performed according to the wish of the bride and bridegroom and if either of the party is not willing to perform the marriage, it cannot be said that the father of the bridegroom is defamed on refusal of performing the marriage. Secondly, so far as the allegation of false evidence being given in the Sessions Court by the accused is concerned, there is no reference in the said order about such false evidence being given by the accused. There is no material to show that false affidavit was given before the Sub-Registrar at Solapur. There is no reason to interfere with the order passed by the Revisional Court. Even otherwise, on perusal of the complaint and taking the averments on its face value, no case is made out against the accused and, therefore, the

complaint was liable to be quashed. Writ Petition is accordingly dismissed.

V.M. KANADE, J.